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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/035,405	11/08/2001	James Janesick	50047050-0003	3388
25700	7590	02/17/2004	EXAMINER	
FARJAMI & FARJAMI LLP 16148 SAND CANYON IRVINE, CA 92618			ALLEN, STEPHONE B	
			ART UNIT	PAPER NUMBER
			2878	

DATE MAILED: 02/17/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/035,405	Applicant(s) JAMES JANESICK	
	Examiner Stephone B. Allen	Art Unit 2878	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-30 is/are pending in the application.
 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-10, 15-23 and 25 is/are rejected.
- 7) ☒ Claim(s) 11-14, 24 and 26-30 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) ☐ All b) ☐ Some c) ☐ None of:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
 * See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
 a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) ____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Specification

The disclosure is objected to because of the following informalities:

On page 2, line 2, "other" should be changed to --others--.

On pages 5-6, it appears that information that was to be supplied in areas left blank. However these sentences should be deleted since the inclusion of the omitted information at this time would be considered new matter.

On page 7, third paragraph, the particular specifics of the controller were inadvertently omitted as indicated by the comments. However, this paragraph should be deleted, since the inclusion of the specifics of the controller at this time would be considered new matter.

Page 8, line 1, integration period "224" should be --230-- and readout period "222" should be --232--. In lines 6-7, it appears that the 'charge collection well 234" should be --photoreceptor potential well 234--.

Page 10, lines 5 and 7, photoreceptor "202" should be --204--; and in lines 16, 18 and 23, photoreceptor "200" should be --204--.

Page 11, lines 1 and 19, photoreceptor "200" should be --204--.

Appropriate correction is required.

Double Patenting

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11

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F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claims 1-10, 15-23 and 24 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-7, 9-11, 15, 16 and 18 of copending Application No. 10/135,708. Although the conflicting claims are not identical, they are not patentably distinct from each other because the claims of the present application are a broader representation of those in the '708 application in that the actual specifics of the composition of the imager cells are not claimed in the present application.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States

only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1 and 3 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 6,166,768 to Fossum et al. (hereinafter Fossum). It should be understood that because the claim specifies a "multi-mode controller" comprising circuitry implementing at least one of a high-light mode and Snap mode of operation, it is not considered a multi-mode controller since at least one implies that a single mode of operation can satisfy this requirement.

With respect to claims 1-3, Fossum discloses (Figure 4) an imager comprising an array of imager cells comprising a controller coupled to the array comprising implementing a high-light mode of operation providing charge accumulation in a photoreceptor well and a readout potential well. The high-light mode provides charge accumulation in the photoreceptor potential well, the readout potential well and a sense node potential well. The high-light mode comprises V+ integration voltage applied during an integration period to a photoreceptor readout gate, thereby allowing charge to accumulated in the readout potential well (col. 2, lines 13-18 and col. 4, line 53 – col. 4, line 9).

Claims 1 and 3 are rejected under 35 U.S.C. 102(e) as being anticipated by U.S. Patent No. 6,515,702 B1 to Yadid-Pecht et al. (hereinafter YP). It should be understood that because the claim specifies a "multi-mode controller" comprising circuitry implementing at least one of a high-light mode and Snap mode of operation, it is not considered a multi-mode controller since at least one implies that a single mode of operation can satisfy this requirement.

With respect to claims 1 and 3, YP discloses (Figure 4) an imager comprising an array of imager cells comprising a controller coupled to the array comprising implementing a high-light mode of operation providing charge accumulation in a photoreceptor well and a readout potential well. The high-light mode comprises $V+$ integration voltage applied during an integration period to a photoreceptor readout gate, thereby allowing charge to accumulated in the readout potential well (col. 2, line 53 – col. 4, line 9).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 6 and 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Yadid-Pecht et al. (YP) or Fossum et al. (Fossum) in view of Gee et al. (Gee).

Both YP and Fossum are silent as to at least one of the imager cells comprising a pinned photoreceptor or a pinned photodiode. However, Gee discloses an imager incorporating a pinned photodiode in the sensor. It would have been obvious for one of ordinary skill in the art to include such a pinned photodiode since the advancements in CMOS technology indicate that this inclusion would aid in the reduction of dark current and reset noise and provide better image quality. The photodiode is a photoreceptor.

Allowable Subject Matter

Claims 11-14, 24 and 26-30 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephone B. Allen whose telephone number is (571) 272-2434. The examiner can normally be reached on Mon-Thurs from 0900-1700.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dave P. Porta can be reached on (571) 272-2444. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (571) 272-1550.

A handwritten signature in black ink, appearing to read 'Stephone B. Allen', written in a cursive style.

Stephone B. Allen
Primary Examiner
Art Unit 2878

sba